

A bill for an act

relating to public safety; modifying duties and responsibilities of Forensic Laboratory Advisory Board; requiring the board to appoint an executive secretary; establishing immunity from liability for board members; clarifying availability of investigation reports to the public; defining forensic laboratory; providing for a study and report; appropriating money; amending Minnesota Statutes 2008, section 299C.156, subdivisions 1, 2, 3, 4, 5, 7, 11, by adding a subdivision.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2008, section 299C.156, subdivision 1, is amended to read:

Subdivision 1. **Membership.** (a) The Forensic Laboratory Advisory Board consists of the following:

(1) the superintendent of the Bureau of Criminal Apprehension or the superintendent's designee;

(2) the commissioner of public safety or the commissioner's designee;

(3) the commissioner of corrections or the commissioner's designee;

(4) an individual with expertise in the field of forensic science, selected by the governor;

(5) an individual with expertise in the field of forensic science, selected by the attorney general;

(6) a faculty member of the University of Minnesota, selected by the president of the university;

(7) the state public defender or a designee;

(8) a prosecutor, selected by the Minnesota County Attorneys Association;

(9) a sheriff, selected by the Minnesota Sheriffs Association;

- (10) a police chief, selected by the Minnesota Chiefs of Police Association;
- (11) a judge or court administrator, selected by the chief justice of the Supreme Court; and
- (12) a criminal defense attorney, selected by the Minnesota State Bar Association.
- (b) The board shall select a chair from among its members.
- (c) Board members serve four-year terms and may be reappointed.
- (d) The board may appoint and employ an executive secretary.
- (e) The board may employ staff necessary to carry out its duties.

Sec. 2. Minnesota Statutes 2008, section 299C.156, subdivision 2, is amended to read:

Subd. 2. **Duties.** (a) The board ~~may~~ shall:

(1) require laboratories that conduct forensic analyses to become accredited by the American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB) or other appropriate accrediting body and develop and implement a process for those entities to report their accreditation status to the board;

(2) develop and implement a reporting system through which laboratories, ~~facilities,~~ or ~~entities~~ that conduct forensic analyses report professional negligence or misconduct that substantially affects the integrity of the forensic results committed by employees or contractors; and

~~(2)~~ (3) encourage all laboratories, ~~facilities, or entities~~ that conduct forensic analyses to report professional negligence or misconduct that substantially affects the integrity of the forensic results committed by employees or contractors to the board;

~~(3) investigate, in a timely manner, any allegation of professional negligence or misconduct that would substantially affect the integrity of the results of a forensic analysis conducted by a laboratory, facility, or entity; and~~

~~(4) encourage laboratories, facilities, and entities that conduct forensic analyses to become accredited by the American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB) or other appropriate accrediting body and develop and implement a process for those entities to report their accreditation status to the board.~~

(b) The board may investigate, in a timely manner, any allegation of professional negligence or misconduct that would substantially affect the integrity of the results of a forensic analysis conducted by a laboratory. The board may defer investigating any claim until sufficient funding to do so becomes available. If the board finds negligence or misconduct on the part of a laboratory, the board may impose the cost of the investigation on that laboratory. Board members with a direct interest in the outcome of an investigation shall recuse themselves from the investigation and any decisions relating to it.

Sec. 3. Minnesota Statutes 2008, section 299C.156, subdivision 3, is amended to read:

Subd. 3. **Investigations.** (a) An investigation under subdivision 2, ~~clause (3)~~
paragraph (b):

(1) may include the preparation of a written report that identifies and describes the methods and procedures used to identify:

(i) the alleged negligence or misconduct;

(ii) whether negligence or misconduct occurred; and

(iii) any corrective action required of the laboratory, facility, or entity; and

(2) may include one or more:

(i) retrospective reexaminations of other forensic analyses conducted by the laboratory, facility, or entity that may involve the same kind of negligence or misconduct; and

(ii) follow-up evaluations of the laboratory, facility, or entity to review:

(A) the implementation of any corrective action required under clause (1)(iii); or

(B) the conclusion of any retrospective reexamination under clause (2)(i).

(b) The costs of an investigation under this section must be borne by the laboratory, facility, or entity being investigated.

Sec. 4. Minnesota Statutes 2008, section 299C.156, is amended by adding a subdivision to read:

Subd. 3a. **Immunity.** Board members, committees, subcommittees, task forces, delegates, and agents are immune from liability in any civil, administrative, or criminal action for any act, omission, transaction, or publication in the execution of, or relating to, their duties under this section.

Sec. 5. Minnesota Statutes 2008, section 299C.156, subdivision 4, is amended to read:

Subd. 4. **Delegation of duties.** The board by contract may delegate the duties described in subdivision 2, ~~clauses (1) and (3)~~ paragraphs (a), clause (2), and (b), to any person or entity that the board determines to be qualified to assume those duties.

Sec. 6. Minnesota Statutes 2008, section 299C.156, subdivision 5, is amended to read:

Subd. 5. ~~Reviews and reports are public~~ **Data privacy practices.** (a) The board shall make ~~all~~ investigation reports completed under subdivision 3, paragraph (a), clause (1), available to the public only if there is a finding of negligence or misconduct. The complaint in any investigation under subdivision 3 shall not be available to the public.

Nothing in this paragraph shall supersede the privacy rights of an employee acting within the scope of the employee's public employment.

(b) A report completed under subdivision 3, paragraph (a), clause (1), in a subsequent civil or criminal proceeding is not prima facie evidence of the information or findings contained in the report.

Sec. 7. Minnesota Statutes 2008, section 299C.156, subdivision 7, is amended to read:

Subd. 7. **Forensic analysis processing time period guidelines; forensic science improvement report.** (a) ~~By July 1, 2007 Periodically,~~ the board shall recommend forensic analysis processing time period guidelines applicable to the Bureau of Criminal Apprehension and other laboratories, ~~facilities, and entities that conduct forensic analyses. When adopting and recommending these guidelines and when making other related decisions, the board shall consider the goals and priorities identified by the presidential DNA initiative.~~ The board shall consider the feasibility of the Bureau of Criminal Apprehension completing the processing of forensic evidence submitted to it by sheriffs, chiefs of police, or state or local corrections authorities.

(b) The Bureau of Criminal Apprehension shall provide information to the board in the time, form, and manner determined by the board and keep it informed of the most up-to-date data on the actual forensic analysis processing turnaround time periods. By January 15 of each year, the board shall report to the legislature ~~on these issues~~ on the status of services provided by public forensic laboratories, including the recommendations made by the board to improve turnaround times.

Sec. 8. Minnesota Statutes 2008, section 299C.156, subdivision 11, is amended to read:

Subd. 11. **Definition.** As used in this section:

(1) "forensic analysis" means a ~~medical, chemical, toxicologic, ballistic, scientific or~~ other expert examination or test performed on physical evidence, ~~including DNA evidence,~~ for the purpose of determining the connection of the evidence to a criminal action; ~~and~~

(2) "forensic laboratory" means an entity or facility that conducts scientific tests or examinations on physical evidence in connection with a criminal action and provides expert testimony in court relating to their findings. Forensic laboratory does not include medical examiners. For the purposes of subdivision 3, forensic laboratory includes both public and private forensic laboratories that are located in the state of Minnesota. Any forensic laboratory providing services in Minnesota, whether located in the state or not, must meet the requirements of this section.

Sec. 9. **FORENSIC LABORATORY ADVISORY BOARD; APPROPRIATION; STUDY.**

(a) The Forensic Laboratory Advisory Board shall seek money from nonstate sources that do not have a conflict of interest to study and prepare a report on the systematic expansion of regional forensic crime laboratory outreach in the state including:

(1) recommendation of the regions that should be developed based on factors such as:

(i) population;

(ii) crime rate;

(iii) distance to crime laboratories that conduct certain forensic analyses required for particular types of evidence; and

(iv) financial ability of the region to support a forensic crime laboratory;

(2) the regions ranked according to priority of need for a forensic crime laboratory; and

(3) recommendations to the legislature for the use of state funding to develop forensic crime laboratories in regions where the laboratories are needed most.

Any money received is appropriated to the board for the purposes of this section.

(b) The board shall make recommendations regarding procedures for the filing of complaints of, and for consideration of, professional negligence and misconduct, and make recommendations regarding the range of consequences for acts of professional negligence and misconduct.

(c) The board must submit its reports and recommendations under paragraphs (a) and (b) to the house of representatives and senate committees with jurisdiction over public safety by March 1, 2010.